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C O N F I D E N T I A L SECTION 01 OF 02 BOGOTA 009321

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SUBJECT: UPDATE ON REELECTION: THINKING OF PLAN B

REF: A. BOGOTA 8241

[1](#)B. 04 BOGOTA 12860

Classified By: Ambassador William B. Wood

Reasons: 1.4 (b,d)

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Summary  
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[1](#)1. (C) President Uribe and his team are considering contingency plans in the event the Constitutional Court strikes down reelection. The plans that are receiving most attention include a public referendum that would seek to change the Constitution, and the casting of a separate ballot during March 2006 Congressional elections that would purportedly authorize Uribe to run in May. The option of casting "null" ballots during the May presidential contest, and thereby causing another election with different candidates, would not enable Uribe to run again and would be a symbolic protest. Similarly, a "national interest" ballot initiative appears to lack the legal weight to proceed. End Summary.

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Contingency Planning  
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[1](#)2. (SBU) Uribe supporters are considering two principal courses of action in the event the Court were to strike down reelection:

-- a national referendum (the most commonly-mentioned option); and

-- a separate ballot initiative

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National Referendum  
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[1](#)3. (SBU) A national referendum on reelection would need to take place before the Presidential election on May 28. The Constitution explicitly allows for Constitutional reform via referendum (the other two vehicles are via legislation in Congress or via Constitutional Convention). In rough terms, a referendum can be convened by the signatures of five percent of voting-age adults (based on the census). In addition to formal steps such as review of signatures, the referendum -- in particular the text of the issue to be decided -- would need to pass both houses of Congress, which would not likely be a hurdle. A subsequent required step would be approval of the text by the Constitutional Court, a potentially more complicated step that could be drawn out by one or more magistrates. Only after that could Uribe begin to campaign as a candidate, in the teeth of other party candidates, most of whom would reject the referendum. The timeline for completing all the required steps would be disruptive and tight, but might be manageable given popular support for Uribe's reelection.

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Separate Ballot Initiative  
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[1](#)4. (SBU) President Uribe could issue a decree in the days before March 12 Congressional elections mandating that electoral authorities count separate ad hoc ballots that citizens could deposit along with their Congressional votes. The ad hoc ballot, which would be distributed at polling places by Uribe supporters, would simply query the individual's support for the option of reelection. Provided that 50 percent of the total nationwide Congressional vote supported the reelection option, the measure would pass, and in theory Uribe could be on the May 28 ballot. The above method was used in the 1990 Congressional election to convene the Convention that drafted the 1991 Constitution. While the high courts subsequently ruled that the actual Presidential decree was unconstitutional, the court ruling nevertheless allowed the "will of the people" (the convening of the Convention) to prevail. We would expect a complicated legal battle in this case.

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#### "Null Vote" Option

15. (SBU) The null vote option would not directly assist Uribe, but would be a symbolic statement of public protest. Electoral laws mandate that in the event blank ballots (null votes) attain a majority, the vote is annulled and a new election is required. No existing candidate would be allowed to participate in the new election. We see no likelihood that null votes would be a majority, nor would a null vote majority, in itself, enable Uribe to run again.

#### National Interest Initiative

16. (SBU) While several supporters have pushed the national interest initiative, our estimation is it would not pass legal muster. Article 104 of the Constitution allows for a ballot initiative to decide issues of national interest. Our legal contacts concur, however, that the Constitution would continue to prohibit reelection, as the national interest initiative would not supplant the highest law of the land.

WOOD